

Thereupon, at 1:41 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KYL).

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

#### T. OSCAR TREVINO, JR., 1995 TEXAS SMALL BUSINESS PERSON OF THE YEAR

Mrs. HUTCHISON. Mr. President, I want to recognize the leadership of a small business person in my State who is being honored today by the Small Business Administration as the Small Business Person of the Year in Texas.

Mr. Oscar Trevino, Jr. is president of J.L. Steel, Inc. He is what America is all about, Mr. President. He took a company, J.L. Steel, from \$400,000 in revenues in the first year, in 1989, and built that company to over \$13 million in revenues last year. It is the fifth fastest growing Hispanic-owned company in the United States.

I am really proud of this Texan. He has really added to the economic vitality of our community in that he now has 140 employees that are working and paying taxes and are good citizens of our State. I am very pleased to honor him today.

Mr. President, I ask unanimous consent that his biography be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### BIOGRAPHY OF T. OSCAR TREVINO, JR.

It was 1989, and Oscar Trevino was comfortable with his company care and steady paycheck. He and neighbor Jan La Point were chatting on the lawn after dinner, while the kids played out front. It seems that Jan was having trouble expanding her two-year-old company, and Oscar was interested.

Before he realized it, he had worked out a business plan on his computer, and they were in business as J.L. Steel. Oscar borrowed against his retirement account, his credit cards and from family to become 51 percent owner of the firm. From \$400,000 in revenues that first year, J.L. Steel has grown to nearly \$13.6 million in revenues last year, making it the fifth fastest-growing Hispanic-owned company in the United States, with an annual growth rate of 235 percent.

J.L. Steel installs reinforced steel in highways, bridges and buildings. The firm competes for government and private contracts in Texas, Oklahoma and Louisiana, and satisfies its customers with reliable estimates, quality workmanship and attention to detail in the reams of accompanying paperwork. The firm has called on the SBA twice: in 1992 for a loan guarantee to finance growth and again in 1993, when it was certified as an 8(a) contractor, allowing it to compete for jobs from the federal government.

Oscar himself started out as a laborer, working summers for a major general-con-

tracting firm while he earned a civil engineering degree from Texas A&M. He stayed with the firm after he graduated in 1978, advancing to become project manager by 1989. He hasn't forgotten how difficult it can be for others, and J.L. Steel has an aggressive equal-opportunity policy.

Oscar supports fledgling companies by helping them with marketing, construction practices and subcontracting opportunities. His tireless advocacy work on behalf of minority- and women-owned businesses includes work on various boards and committees, including the Dallas Minority Business Enterprise Advisory Committee and the Disadvantaged Business Enterprise Support Services program of the Texas Engineering Extension Service. He also helped the Association of General Contractors of Texas develop and promote fair and equitable goals, and training and apprenticeship programs for minorities and women.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 743 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. HUTCHISON. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. GORTON. Mr. President, having completed work on all of the amendments relating to medical malpractice, the floor of the Senate is now open for other amendments to the product liability legislation. I understand that serious amendments are to be proposed extending the punitive damages provisions of this bill to all litigation and extending the rules related to joint liability to all litigation. At the same time, there are a number of other amendments, both those which would broaden the legislation and those which would narrow it, which is appropriate and is relative to be discussed in connection with this bill.

I do hope at this point, after more than a week of debate, that proponents and opponents to these amendments will be willing to consider adequate, but relatively brief, time agreements, so that we can move the legislation forward. As Members come to the floor to present their amendments, I intend to make that suggestion to them, and we can have first-rate debate and votes and perhaps fewer quorum calls than we have had for some time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. It is amendment No. 596 to H.R. 956.

AMENDMENT NO. 617

(Purpose: To provide for certain limitations on punitive damages, and for other purposes)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. EXON, Mr. HATCH, Mr. MCCONNELL, Mr. ABRAHAM, Mr. KYL, Mr. THOMAS, Mrs. HUTCHISON, and Mr. GRAMM, proposes an amendment numbered 617.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, strike line 12 through line 5 on page 21, and insert the following:

#### SEC. 107. PUNITIVE DAMAGES IN CIVIL ACTIONS.

(a) FINDINGS.—The Congress finds that—

(1) punitive damages are imposed pursuant to vague, subjective, and often retrospective standards of liability, and these standards vary from State to State;

(2) the magnitude and unpredictability of punitive damage awards in civil actions have increased dramatically over the last 40 years, unreasonably inflating the cost of settling litigation, and discouraging socially useful and productive activity;

(3) excessive, arbitrary, and unpredictable punitive damage awards impair and burden commerce, imposing unreasonable and unjustified costs on consumers, taxpayers, governmental entities, large and small businesses, volunteer organizations, and non-profit entities;

(4) products and services originating in a State with reasonable punitive damage provisions are still subject to excessive punitive damage awards because claimants have an economic incentive to bring suit in States in which punitive damage awards are arbitrary and inadequately controlled;

(5) because of the national scope of the problems created by excessive, arbitrary, and unpredictable punitive damage awards, it is not possible for the several States to enact laws that fully and effectively respond to the national economic and constitutional problems created by punitive damages; and

(6) the Supreme Court of the United States has recognized that punitive damages can produce grossly excessive, wholly unreasonable, and often arbitrary punishment, and therefore raise serious constitutional due process concerns.

(b) GENERAL RULE.—Notwithstanding any other provision of this Act, in any civil action whose subject matter affects commerce brought in any Federal or State court on any theory, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant only if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct by the defendant that was either—

(1) specifically intended to cause harm; or

(2) carried out with conscious, flagrant disregard to the rights or safety of others.

(c) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded to a claimant in any civil action subject to this section shall not exceed 2 times the sum of—